

THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF NORTH CAROLINA  
CIVIL ACTION NO. 5:19-CT-03234-FL

STEVE M. TOLBERT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
DR. HUSSEIN, DR. COLEMAN,	)	
DR. URENE, DR. DEMEKO, DR.	)	
STEWART, and JOHN DOE #1 and #2	)	
	)	
Defendants.	)	
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**DEFENDANT DR. HASSAN’S STATEMENT OF MATERIAL FACTS**

**NOW COMES** Defendant Dr. Sami Hassan (“Defendant Hassan”) (incorrectly named “Dr. Hussein” in Plaintiff’s Complaint), by and through undersigned counsel and, pursuant to Federal Rule of Civil Procedure 56 and this Court’s Local Rule 56, hereby submits the following Statement of Material Facts in support of his Motion for Summary Judgment.

Defendant Hassan states that the following facts are uncontested by either party:

1. This action was initiated on July 25, 2019 by Steve M. Tolbert (OPUS 0409607) (“Plaintiff”), a convicted and sentenced inmate in the custody of the North Carolina Department of Public Safety – Division of Adult Corrections (“NCDPS”). (D.E. 1).
2. In December of 2012, Plaintiff was first seen about his foot after he requested a sick call into medical while being processed at Central Prison in Raleigh, North Carolina. (D.E. 16 at 5).

3. In early 2013, Plaintiff was transferred to Lanesboro Correctional Institute (“Lanesboro”) in Polkton, North Carolina. *Id.*
4. While at Lanesboro, Plaintiff again complained of foot pain and was seen only one time by Defendant Hassan. Defendant Hassan ordered x-rays of Plaintiff’s foot to ensure nothing too serious was amiss. *Id.*
5. The x-rays, as read by Defendant Hassan, revealed that Plaintiff’s foot had Degenerative Joint Disease (arthritis) around the complained of toe, but no other degenerative changes were present. (Declaration of Dr. Hassan at ¶4). The alignment of the foot was normal as was the soft tissue of the foot. *Id.*
6. Based on these x-ray results, Defendant Hassan prescribed ibuprofen to help Plaintiff with any pain he was experiencing as well as gel insoles for his shoes. (D.E. 16 at 6).
7. Shortly after Plaintiff was seen the one time by Defendant Hassan, Plaintiff was once again transferred to a new facility in Spring of 2013. *Id.*
8. Defendant Hassan has had no further interactions with Plaintiff since the single time he saw Plaintiff in 2013 and has received no further medical treatment from Defendant Hassan since that time.
9. Plaintiff has ongoing issues with his feet and has seen many other doctors since 2013 to address his pain, but he never stated that he was dissatisfied with the care he received from Defendant Hassan during his single visit with Defendant Hassan or alleged that the pain worsened in any way as a result of his care. *Id.* at 6-7.

10. On December 27, 2019, Plaintiff filed an Amended Complaint against numerous defendants, including Defendant Hassan, claiming that he received insufficient care that amounted to medical malpractice and that the improper treatment of his foot pain amounted to cruel and unusual punishment. (D.E. 1; D.E. 16).
11. Plaintiff's Amended Complaint did not allege that any of the brief term of care provided by Defendant Hassan specifically caused his injury. (*See* D.E. 16).
12. Plaintiff also did not state that Defendant Hassan's care was deficient in any way, other than stating that Defendant Hassan did not refer him to a specialist, which he never related to any standard of care. *Id.*
13. Neither Plaintiff's Complaint nor Amended Complaint contained a Certification pursuant to Rule 9(j) of the North Carolina Rules of Civil Procedure regarding medical care provided by Dr. Hassan.

Respectfully submitted, this the 10th day of February, 2022.

KING LATHAM LAW, PLLC

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### **CERTIFICATE OF SERVICE**

I hereby certify that on February 10, 2022, I electronically filed the foregoing true and correct copy of **DEFENDANT DR. HASSAN'S STATEMENT OF MATERIAL FACTS** using the CM/ECF system, and I hereby certify that I have thereby electronically served the document to all current counsel of record.

I further certify that on this date a copy of the foregoing document was served on all non-CM/ECF participants by depositing a copy of same in the United States mail, first class, postage prepaid, and addressed as follows:

Steve M. Tolbert  
OPUS No. 0409607  
Hyde Correctional Institute  
P.O. Box 278  
Swan Quarter, NC 27885

This the 10<sup>th</sup> day of February, 2022.

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